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IOWA UTILITIES BOARD  
DEPARTMENT OF COMMERCE

January 23, 1998

Acting Secretary  
Federal Communications Commission  
Room 222, 1919 M Street NW  
MS 1170  
Washington, DC 20554

RE: Report to Congress on Universal Service Under the Telecommunications  
Act of 1996, CC Docket No. 96-45 (Report to Congress).

Dear Secretary:

Enclosed for filing in the above docket are an original and five copies of the Initial  
Comments of the Iowa Utilities Board on the Commission's Report to the Congress  
on Universal Service.

Please stamp one of the enclosed copies, and return it in the enclosed postage-paid  
envelope.

Sincerely,

Diane Munns  
General Counsel

Enclosures

cc: International Transcription Service  
Sheryl Todd, FCC

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of	)	
	)	
Report to Congress on Universal Service Under	)	CC Docket No. 96-45
the Telecommunications Act of 1996	)	(Report To Congress)

INITIAL COMMENTS OF THE IOWA UTILITIES BOARD ON THE  
COMMISSION'S REPORT TO THE CONGRESS ON UNIVERSAL SERVICE

The Iowa Utilities Board (Board) offers the following suggestions pursuant  
to the Public Notice, DA 98-2, issued January 5, 1998:

SUMMARY

The Board suggests four major areas of concern to be reported to the  
Congress regarding the universal service provisions of the 1996  
Telecommunications Act (Act) and the Federal Communications Commission's  
implementation of those provisions:

1. The Federal Communications Commission (FCC) has stated that it has the authority to assess intrastate revenues to support a federal universal service fund.<sup>1</sup> The Iowa Utilities Board believes this is contrary to the plain language of the Act at Section 254(d).
2. The Board disagrees with the decision of the FCC to fund only twenty-five percent of the amount necessary to support universal service and believes this is contrary to the clear intent of the Act at Section 254(d).<sup>2</sup>
3. The Board believes the FCC's decision to use the interstate universal service fund for the sole purpose of reducing interstate access charges is contrary to the plain language of the Act at Section 254(e) and may detract from achieving the Act's objective.<sup>3</sup>
4. The Board also urges that the report mention the problem of eligibility of state networks, such as the Iowa Communications Network, to receive funding for services provided to schools and libraries.<sup>4</sup>

### COMMENTS

The Iowa Utilities Board appreciates the opportunity to provide comment on the Federal Communication Commission's (FCC's) implementation of the provisions of the Telecommunications Act of 1996 relating to universal service. The Board recognizes the tremendous responsibility of the FCC and the Federal

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<sup>1</sup> FCC-97-157, First R&O, CC-96-45, released May 8, 1997, ¶ 813.

<sup>2</sup> FCC-97-157, First R&O, CC-96-45, released May 8, 1997, ¶¶ 833-834 and ¶¶ 269-270.

<sup>3</sup> FCC-97-354, NPRM, CC-80-286, released October 7, 1997, ¶¶ 97 and 100.

<sup>4</sup> See 4th R&O on Reconsideration, CC-96-45, ¶¶ 187-188.

State Joint Board in implementing the universal service provisions of the Act. While the Board has not agreed with all of the FCC's interpretations of the Act, the Board has appreciated the opportunity provided by the FCC through the rulemaking process and through open dialogue to express its opinion on the implementation of the Act.

#### Assessment of Intrastate Revenues to Support a Federal Universal Service Fund

The FCC has stated that it has the authority to assess intrastate revenues to support a federal universal service fund. Section 254(d) of the Act states that "every telecommunications carrier that provides interstate telecommunications services" must contribute to the universal service fund established by the FCC to preserve and advance universal service. Section 254(f) provides that "[e]very telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State, to the preservation and advancement of universal service in that State."

In the absence of clear authority to assess intrastate revenues, the assessments for support of these two distinct funds must follow traditional jurisdictional lines set by Congress in section 152(b); the FCC may assess interstate revenues and the states may assess intrastate revenues. Without

clear statutory authorization to do so, the FCC may not -- regardless of policy reasons favoring such a mechanism -- reach intrastate revenues.

#### Federal Universal Service Fund Support Responsibility

The Board opposes the decision of the FCC to fund only twenty-five percent of the amount necessary to support universal service and believes this is contrary to the clear intent of the Act at Section 254(d). Section 254(d) states, in part, that the mechanisms established by the FCC to preserve and advance universal service must be sufficient. The Act, at 254(e), speaks of sufficient universal service support to achieve the purposes of this section of the Act. The first principle in the universal service section is "Quality services should be available at just, reasonable and affordable rates."

The amount of support provided from the Federal fund itself should be sufficient to accomplish this principle -- of just, reasonable, and affordable rates. The FCC should not arbitrarily set the size of the Federal fund at twenty-five percent of the total amount, as the percentage necessary to support universal service. The FCC did not consider the effect on the local service rates of high cost states, when it determined the size of the Federal fund. Nor did the FCC consider the impact on customers, of a large state universal fund in a state with high cost and low population. For customers in these states, the result could be a state charge for universal service of such magnitude that the surcharge would

be a deterrent to universal service. Clearly the intent of the universal section of the Act was that the FCC have a sufficient size fund, so that rates in high cost states are affordable.

#### Use of Federal Universal Service Support

The Board believes the FCC's decision to use the interstate universal service fund for the sole purpose of reducing interstate access charges is contrary to the plain language of the Act at Section 254(e). Section 254(e) states, "A carrier that receives such support shall use that support only for the provision, maintenance and upgrading of facilities and services for which the support is intended. The historical purpose of the federal universal service fund has been to provide funding for local service in high cost geographic areas.

The FCC in its CC Docket 80-286 order of October 7, 1997, states that all federal support received by ILECs should be assigned to the interstate jurisdiction. This is a significant change in previous policy that assigned 100% of interstate high cost fund support to the intrastate jurisdiction. For 1995, the high cost and DEM weighting support provided approximately \$1.6 billion dollars support to intrastate services.

Under the FCC's rules, the federal high cost fund will provide no support to maintain affordable basic local service rates, and states will have 100% of the

responsibility. High cost states that previously received federal support would be worse off than they were before; because basic service rates may increase as a result of the loss of the current federal high cost support.

A **universal** service fund indicates a national program where low cost states provide support for high cost states. For basic local service, under the FCC's approach, no such fund will exist. The federal fund will provide support to reduce access charges that may result in lower long distance rates. However, this will be of little or no benefit, if customers' local basic service rates are not affordable.

#### State Network Issue

The Board is concerned that the Commission's interpretations of the definitions of "telecommunications services" and "telecommunications carriers," significantly reduce the intended benefits to Iowa's schools and libraries.

The Iowa Communications Network (ICN) is a facilities-based network built and owned by the state to serve educational and other governmental usage needs. Its planning, financing, and construction predated the Act by several years. The ICN facilities now include several hundred miles of fiber cable connecting school and library buildings throughout the state, switching capability, and a network control center. These facilities provide extensive multi-point

voice, data, and full-motion video service to public and private classrooms, public and private health-care facilities, and government-related locations around Iowa. By combining educational services with other state government traffic (such as judicial data, transportation department traffic, and national guard training) the ICN has achieved significant economies on behalf of its customers.

On December 30, 1997, the Commission announced its interpretation (in this docket's Fourth Report and Order), that the limitation of ICN's service to authorized users is a potential barrier to ICN's status as a "telecommunications carrier". That barrier would make the ICN ineligible to participate in the schools and libraries' fund on behalf of its educational customers.

Nothing leading up to the Fourth Report and Order suggested that a pre-existing state-owned specialized carrier would be ineligible to receive payments from the schools and libraries found for otherwise qualifying telecommunications services. Nothing in the Act suggests that Iowa's early, pro-active, effort to bring advanced technology to its classrooms should be excluded from the benefits of the national schools and libraries' program. If the definitional problems explained in the Fourth Report and Order cannot be resolved in an administrative forum, the Commission should nominate this matter for legislative correction. The following modification of Section 3(51) is suggested:

**TELECOMMUNICATIONS SERVICE.** -- The term 'telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the



public, or to schools and libraries pursuant to section 254(h)(1)(B).  
regardless of the facilities used.

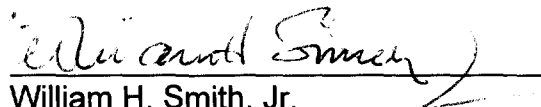
### CONCLUSION

The Board urges the FCC to express the Board's four major concerns in  
the FCC's Congressional Report.

Respectfully Submitted,



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January 22, 1998